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20 **PARKER-HANNIFIN CORPORATION**

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 TRAVELERS CASUALTY
24 INSURANCE COMPANY OF
25 AMERICA AND TRAVELERS
26 COMMERCIAL INSURANCE
27 COMPANY,

28 Plaintiff,

vs.

21 PARKER-HANNIFIN
22 CORPORATION, an Ohio
23 corporation, RADIATOR
24 SPECIALTY COMPANY, a North
25 Carolina corporation; and DOES 1
26 through 50, Inclusive,

27 Defendant.

28 PARKER-HANNIFIN
CORPORATION, an Ohio
corporation,

Third-Party Plaintiff,

Case No: 2:16-CV-01876-DSF(PJWx)
[LASC Case No.: EC06452]

Case Reassigned for all purposes to
Judge Dale S. Fischer
Magistrate Judge Patrick J. Walsh
Courtroom 840

Complaint Filed: February 23, 2016
Trial Date: None

STIPULATED PROTECTIVE ORDER

1 vs.

2 MXD GROUP, INC.

3 Third-Party Defendant.
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6 1. A. PURPOSES AND LIMITATIONS

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8 Discovery in these related actions is likely to involve production of
9 confidential, proprietary, or private information for which special protection from
10 public disclosure and from use for any purpose other than prosecuting this
11 litigation may be warranted. Accordingly, the parties hereby stipulate to and
12 petition the Court to enter the following Stipulated Protective Order. The parties
13 acknowledge that this Order does not confer blanket protections on all disclosures
14 or responses to discovery and that the protection it affords from public disclosure
15 and use extends only to the limited information or items that are entitled to
16 confidential treatment under the applicable legal principles. The parties further
17 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
18 Order does not entitle them to file confidential information under seal; Civil Local
19 Rule 79-5 sets forth the procedures that must be followed and the standards that
20 will be applied when a party seeks permission from the Court to file material
21 under seal.
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26 B. GOOD CAUSE STATEMENT
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1 This action is likely to involve trade secrets, product design information, and
2 other valuable research, development, commercial, financial, technical and/or
3 proprietary information for which special protection from public disclosure and
4 from use for any purpose other than prosecution of this action is warranted. Such
5 confidential and proprietary materials and information consist of, among other
6 things, confidential business information, engineering documents, information
7 regarding confidential business practices, or other confidential research,
8 development, or commercial information (including information implicating
9 privacy rights of third parties), information otherwise generally unavailable to the
10 public, or which may be privileged or otherwise protected from disclosure under
11 state or federal statutes, court rules, case decisions or common law. Accordingly,
12 to expedite the flow of information, to facilitate the prompt resolution of disputes
13 over confidentiality of discovery materials, to adequately protect information the
14 parties are entitled to keep confidential, to ensure that the parties are permitted
15 reasonable necessary uses of such material in preparation for and in the conduct of
16 trial, to address their handling at the end of the litigation, and serve the ends of
17 justice, a protective order for such information is justified in this matter. It is the
18 intent of the parties that information will not be designated as confidential for
19 tactical reasons and that nothing be so designated without a good faith belief that
20 it has been maintained in a confidential, non-public manner, and there is good
21 cause why it should not be part of the public record of this case.
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2. DEFINITIONS

2.1 Action: these related actions.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which they are generated, stores, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this action.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

1 2.8 House Counsel: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside
3 counsel.
4

5 2.9 Non-Party: any natural person, partnership, corporation, association, or
6 other legal entity not named as a Party to this action.
7

8 2.10 Outside Counsel of Record: attorneys who are not employees of a party
9 to this Action but are retained to represent or advise a party to this Action and
10 have appeared in this Action on behalf of that party or are affiliated with a law
11 firm which has appeared on behalf of that party, and includes support staff.
12

13 2.11 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants retained experts, and Outside Counsel of Record (and their
15 support staffs).
16

17 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
18 Discovery Material in this Action.
19

20 2.13 Professional Vendors: persons or entities that provide litigation support
21 services (e.g., photocopying videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.
24

25 2.14 Protected Material: any Disclosure or Discovery Material that is
26 designated as “CONFIDENTIAL.”
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1 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
2 from a Producing Party.

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6 3. SCOPE

7 The protections conferred by this Stipulation and Order cover not only
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9 Protected Material (as defined above), but also (1) any information copies or
10 extracted from Protected Material; (2) all copies, excerpts, summaries or
11 compilations of Protected Material; and (3) any testimony, conversations, or
12 presentations by Parties of their Counsel that might reveal Protected Material.
13

14 Any use of Protected Material at trial shall be governed by the orders of the
15 trial judge. This Order does not govern the use of Protected Material at trial.
16

17 4. DURATION

18 Even after final disposition of this litigation, the confidentiality obligations
19 imposed by this Order shall remain in effect until a Designating Party agrees
20 otherwise in writing or a court order otherwise directs. Final disposition shall be
21 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
22 with or without prejudice; and (2) final judgment herein after the completion and
23 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
24 including the time limits for filing any motions or applications for extension of
25 time pursuant to applicable law.
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1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection.

3 Each Party or Non-Party that designates information or items for protection under
4 this Order must take care to limit any such designation to specific material that
5 qualifies under the appropriate standards. The Designating Party must designate
6 for protection only those parts of material, documents, items, or oral or written
7 communications that qualify so that other portions of the material, documents
8 items or communications for which protection is not warranted are not swept
9 unjustifiably within the ambit of this Order.
10 unjustifiably within the ambit of this Order.

11 Mass, indiscriminate, or routinized designations are prohibited. Designations
12 that are shown to be clearly unjustified or that have been made for an improper
13 purpose (e.g., to unnecessarily encumber the case development process or to
14 impose unnecessary expenses and burdens on other parties) may expose the
15 Designating Party to sanctions.
16 Designating Party to sanctions.

17 If it comes to a Designating Party's attention that information or items that it
18 designated for protection do not qualify for protection, that Designating Party
19 must promptly notify all other Parties that it is withdrawing the inapplicable
20 designation.
21 designation.

22 5.2 Manner and Timing of Designations. Except as otherwise provided in
23 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
24 stipulated or ordered, Disclosure or Discovery Material that qualifies for
25 stipulated or ordered, Disclosure or Discovery Material that qualifies for
26 stipulated or ordered, Disclosure or Discovery Material that qualifies for
27 stipulated or ordered, Disclosure or Discovery Material that qualifies for
28 stipulated or ordered, Disclosure or Discovery Material that qualifies for

1 protection under this Order must be clearly so designated before the material is
2 disclosed or produced.

3 Designation in conformity with this Order requires:

4
5 (a) for information in documentary form (e.g., paper or electronic
6 documents, but excluding transcripts of depositions or other pretrial or trial
7 proceedings), that the Producing Party affix at a minimum, the legend
8 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
9 contains protected material. If only a portion or portions of the material on a page
10 qualifies for protection, the Producing Party also must clearly identify the
11 protected portion(s) (e.g., by making appropriate markings in the margins).
12
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14 A Party or Non-Party that makes original documents available for inspection
15 need not designate them for protection until after the inspecting Party has
16 indicated which documents it would like copied and produced. During the
17 inspection and before the designation, all of the material made available for
18 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
19 identified the documents it wants copies and produced, the Producing Party must
20 determine which documents, or portions thereof, qualify for protection under this
21 Order. Then, before producing the specified documents, the Producing Party must
22 affix the “CONFIDENTIAL legend” to each page that contained Protected
23 Material. If only a portion or portions of the material on a page qualifies for
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1 protection, the Producing Party also must clearly identify the protected portion(s)
2 (e.g., by making appropriate markings in the margins).

3 (b) for testimony given in depositions that the Designating Party
4 identify the Disclosure or Discovery Material on the record, before the close of the
5 deposition all protected testimony.
6

7 (c) for information produced in some form other than documentary
8 and for any other tangible items, from the Producing Party affix in a prominent
9 place on the exterior of the container or containers in which the information is
10 stored the legend "CONFIDENTIAL." If only a portion or portions of the
11 information warrants protection, the Producing Party, to the extent practicable,
12 shall identify the protected portion(s).
13
14

15 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
16 failure to designate qualified information or items does not, standing alone, waive
17 the Designating Party's right to secure protection under this Order for such
18 material. Upon timely correction of a designation, the Receiving Party must make
19 reasonable efforts to assure that the material is treated in accordance with the
20 provisions of this Order.
21
22

23 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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25 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
26 designation of confidentiality at any time that is consistent with the Court's
27 Scheduling Order.
28

1 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
2 resolution process under Local Rule 37.1 et seq.

3 6.3 The burden of persuasion in any such challenge proceeding shall be on
4 the Designating Party. Frivolous challenges, and those made for an improper
5 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
6 parties) may expose the Challenging Party to sanctions. Unless the Designating
7 Party has waived or withdrawn the confidentiality designation, all parties shall
8 continue to afford the material in question the level of protection to which it is
9 entitled under the Producing Party's designation until the Court rules on the
10 challenge.
11
12
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14 7. ACCESS TO AND USE OF PROTECTED MATERIAL

15 7.1 Basic Principles. A Receiving Party may use Protected Material that is
16 disclosed or produced by another Party or by a Non-Party in connection with this
17 Action only for prosecuting, defending, or attempting to settle this Action. Such
18 Protected Material may be disclosed only to the categories of persons and under
19 the conditions described in this Order. When the Action has been terminated, a
20 Receiving Party must comply with the provisions of section 13 below (FINAL
21 DISPOSITION).
22
23
24

25 Protected Material must be stored and maintained by a Receiving Party at a
26 location and in a secure manner that ensures that access is limited to the persons
27 authorized under this Order.
28

1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated
4 “CONFIDENTIAL” only to:
5

6 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
7 well as employees of said Outside Counsel of Record to whom it is reasonably
8 necessary to disclose the information for this Action;
9

10 (b) the officers, directors, and employees (including House Counsel)
11 of the Receiving Party to whom disclosure is reasonably necessary for this Action;
12

13 (c) Experts (as defined in this Order) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);
16

17 (d) the court and its personnel;

18 (e) court reporters and their staff;

19 (f) professional jury or trial consultants, mock jurors, and Professional
20 Vendors to whom disclosure is reasonably necessary for this Action and who have
21 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
22

23 (g) the author or recipient of a document containing the information or
24 a custodian or other person who otherwise possessed or knew the information;
25

26 (h) during their depositions, witnesses, and attorneys for witnesses, in
27 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
28

1 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2)
 2 they will not be permitted to keep any confidential information unless they sign
 3 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
 4 otherwise agreed by the Designating Party or ordered by the court. Pages of
 5 transcribed deposition testimony or exhibits to depositions that reveal Protected
 6 Material may be separately bound by the court reporter and may not be disclosed
 7 to anyone except as permitted under this Stipulated Protective Order; and
 8

9
 10 (i) any mediator or settlement officer, and their supporting personnel,
 11 mutually agreed upon by any of the parties engaged in settlement discussions.
 12

13 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
 14 IN OTHER LITIGATION

15 If a Party is served with a subpoena or a court order issued in other litigation
 16 that compels disclosure of any information or items designated in this Action as
 17 “CONFIDENTIAL,” that Party must:
 18

19 (a) promptly notify in writing the Designating Party. Such
 20 notification shall include a copy of the subpoena or court order;
 21

22 (b) promptly notify in writing the party who caused the subpoena or
 23 order to issue in the other litigation that some or all of the material covered by the
 24 subpoena or order is subject to this Protective Order. Such notification shall
 25 include a copy of this Stipulated Protective Order; and
 26

27 (c) cooperate with respect to all reasonable procedures sought to be
 28 pursued by the Designating Party whose Protected Material may be affected.

1 If the Designating Party timely seeks a protective order, the Party served
 2 with the subpoena or court order shall not produce any information designated in
 3 this action as “CONFIDENTIAL” before a determination by the court from which
 4 the subpoena or order issued, unless the Party has obtained the Designating
 5 Party’s permission. The Designating Party shall bear the burden and expense of
 6 seeking protection in that court of its confidential material and nothing in these
 7 provisions should be construed as authorizing or encouraging a Receiving Party in
 8 this Action to disobey a lawful directive from another court.

11 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
 12 PRODUCED IN THIS LITIGATION

13 (a) The terms of this Order are applicable to information produced by a Non-
 14 Party in this Action and designated as “CONFIDENTIAL.” Such information
 15 produced by Non-Parties in connection with this litigation is protected by the
 16 remedies and relief provided by this Order. Nothing in these provisions should be
 17 construed as prohibiting a Non-Party from seeking additional protections.

20 (b) In the event that a Party is required, by a valid discovery request, to
 21 produce a Non-Party’s confidential information in its possession, and the Party is
 22 subject to an agreement with the Non-Party not to produce the Non-Party’s
 23 confidential information, then the party shall:

25 (1) promptly notify in writing the Requesting Party and the Non-Party
 26 that some or all of the information requested is subject to a confidentiality
 27 agreement with a Non-Party;
 28

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery requests(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the

1 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
2 A.

3 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
4 PROTECTED MATERIAL

5 When a Producing Party gives notice to Receiving Parties that certain
6 inadvertently produced material is subject to a claim of privilege or other
7 protection, the obligations of the Receiving Parties are those set forth in Federal
8 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
9 whatever procedure may be established in an e-discovery order that provides for
10 production without prior privilege review. Pursuant to Federal Rule of Evidence
11 502(d) and (c), insofar as the parties reach an agreement on the effect of
12 disclosure of a communication or information covered by the attorney-client
13 privilege or work product protection, the parties may incorporate their agreement
14 in the stipulated protective order submitted to the court.
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19 12. MISCELLANEOUS

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
21 person to seek its modification by the Court in the future.
22

23 12.2 Right to Assert Other Objections. By stipulating to the entry of this
24 Protective Order no Party waives any right it otherwise would have to object to
25 disclosing or producing any information or item on any ground not addressed in
26 this Stipulated Protective Order. Similarly, no Party waives any right to object on
27
28

1 any ground to use in evidence of any of the material covered by this Protective
2 Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any
4 Protected Material must comply with Civil Local Rule 79-5. Protected Material
5 may only be filed under seal pursuant to a court order authorizing the sealing of
6 the specific Protected Material at issue. If a Party's request to file Protected
7 Material under seal is denied by the court, then the Receiving Party may file the
8 information in the public record unless otherwise instructed by the court.
9

10
11 13. FINAL DISPOSITION
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13 After the final disposition of this Action, as defined in paragraph 4, within 60
14 days of a written request by the Designating Party, each Receiving Party must
15 return all Protected Material to the Producing Party or destroy such material. As
16 used in this subdivision, "all Protected Material" includes all copies, abstracts,
17 compilations, summaries, and any other format reproducing or capturing any of
18 the Protected Material. Whether the Protected Material is returned or destroyed,
19 the Receiving Party must submit a written certification to the Producing Party
20 (and, if not the same person or entity, to the Designating Party) by the 60 day
21 deadline that (1) identifies (by category, where appropriate) all the Protected
22 Material that was returned or destroyed and (2) affirms that the Receiving Party
23 has not retained any copies, abstracts, compilations, summaries or any other
24 format reproducing or capturing any of the Protected Material. Notwithstanding
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1 this provision, Counsel are entitled to retain an archival copy of all pleadings,
 2 motion papers, trial, deposition, and hearing transcripts, legal memoranda,
 3 correspondence, deposition and trial exhibits, expert reports, attorney work
 4 product, and consultant and expert work product, even if such materials contain
 5 Protected Material. Any such archival copies that contain or constitute Protected
 6 Material remain subject to this Protective Order as set forth in Section 4
 7
 8 (DURATION).
 9

10 14. Any violation of this Order may be punished by any and all appropriate
 11 measures including, without limitation, contempt proceedings and/or monetary
 12 sanctions.
 13

14 Dated: _____

Respectfully submitted,
KORTENHOF MCGLYNN & BURNS LLC

17 By: /s/ Maureen A. McGlynn
 18 Maureen A. McGlynn
 19 Attorney for Defendant
 20 PARKER-HANNIFIN CORPORATION

21 Dated: _____

Respectfully submitted,
SHAW, KOEPKE & SATTER

24 By: /s/ John W. Shaw
 25 John W. Shaw
 26 Attorney for Defendant
 27 PARKER-HANNIFIN CORPORATION

28 Dated: August 23, 2016

DIEDERICH & ASSOCIATES

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
 [print or type full address], declare under penalty of perjury that I have read in its entirety and
 understand the Stipulated Protective Order that was issued by the United States District Court
 for the Central District of California on _____ [date] in the case of *Travelers*
Casualty Insurance Company of American, et al. vs. Parker-Hannifin, et al. I agree to comply
 with and to be bound by all the terms of this Stipulated Protective Order and I understand and
 acknowledge that failure to so comply could expose me to sanctions and punishment in the
 nature of contempt. I solemnly promise that I will not disclose in any manner any information
 or item that is subject to this Stipulated Protective Order to any person or entity except in strict
 compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the
 United States District Court for the Central District of California for the purpose of enforcing
 the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print or type full
 name] of _____ [print or type full address and telephone number] as
 my California agent for service of process in connection with this action or any proceedings
 related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

Signature Certification

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing of this document:

Dated:_____
